IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.8482 of 2004

Between:

Sri Venkateswara Hydrid Seeds, rep by Partner P. Sanath Kumar,
S/o.P. Ramanjaneyulu Ghosha Hospital Road, Adoni, Kurnool District.

..... PETITIONER

AND

1 The Joint Director of Marketing, Cuddapah, Cuddapah District.
2 Agricultural Market Committee, Adoni rep by Selection Grade Secretary, Adoni, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in passing best judgment assessment order in ROC No. 498/A4/2002 dt.31-10-2002 for the year 1997-98 for Rs.80,530/- and ROC No.498/4B/2002 dt.31-10-2002 for the year 1998-99 for Rs.1,83,090/- as arbitrary and illegal and set aside the same.

Counsel for the Petitioner: MR.P.HARINATH GUPTA

Counsel for the Respondent No.1: G.P. FOR AGRICULTURE AND MARKETING

Counsel for the Respondent No.2: MR.BADANA BHASKAR RAO,
Standing Counsel for Agricultural Market Committee

The Court made the following:

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.8482 of 2004

ORDER:

The petitioner impugns the assessment order dated 31.10.2002 and another assessment order dated 31.10.2002 in respect of financial years 1997-'98 and 1998-'99 respectively. These assessment orders are issued by the second respondent demanding agricultural market fee from the petitioner. The petitioner, who claims to be a hybrid seed firm, raised two contentions. First, the demand made is barred by time as per Section 12B(1) of A.P. (Agricultural Produce & Livestock) Markets Act, 1966 (the Act, for brevity) and secondly, the hybrid seed not being one of the notified agricultural produce, the second respondent has no authority to levy any market fee.

Though the interlocutory applications are listed today for consideration, as the controversy is in a narrow compass, the matter was heard finally and disposed of by this order.

Having regard to Section 12B of the Act, learned Standing Counsel for the second respondent and learned Government Pleader for Agriculture and Marketing are not able to dispute the contention that any Agricultural Market Committee cannot levy the market fee beyond the period of three years from the expiry of the year to which assessment relates to. By proceedings in ROC No.498/4/A/2002 dated 31.10.2002, the assessment is made for the year 1997-'98. Such assessment ought to have been made prior to 31.3.2001. Similarly the assessment order bearing ROC No.498/4/B/2002 dated 31.10.2002 for the year 1998-'99, ought to have been made prior to 31.3.2002. Both the assessment orders, therefore, are in contravention of Section 12B(1) of the Act and are unsustainable. Insofar as the second question is concerned, it is no doubt true that a learned Single Judge of this Court on 08.2.2005 disposed of a batch of writ petitions being W.P.No.13527 of 2004 and batch, directing that the Market Committee cannot levy any market fee on the seed developed, manufactured and sold as certified or labeled seeds. It is, however, submitted that the hybrid seed dealt with by the petitioner is not certified or labeled seed. However, this question need not be gone in this writ petition having regard to the admitted case that the assessment orders challenging the writ petition are in contravention of Section 12B of the Act. It shall be open to the petitioner to raise the question as to the applicability of the Act, as and when such necessity arises.

The writ petition, for the above reasons, is allowed and there shall be no order as to costs.

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(V.V.S.RAO,J)

22.06.2005

YS

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, Acting Chief Justice on this Wednesday, the Twenty second day of June Two thousand and five.

To

1 The Joint Director of Marketing, Cuddapah, Cuddapah District.
2 The Selection Grade Secretary, Agricultural Market Committee,

Adoni, Kurnool District.

3 Two CCs to the Government Pleader for Agriculture and Marketing,

High Court Buildings, Hyderabad. (OUT)

4 Two C.D. Copies.